

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANTWAN RICHARDSON,	:	Civil No. 1:22-CV-29
	:	
Plaintiff,	:	
	:	(Judge Wilson)
v.	:	
	:	
BRIAN CLARK, et al.,	:	(Magistrate Judge Carlson)
	:	
Defendant.	:	

MEMORANDUM AND ORDER

The background of this order is as follows:

The plaintiff, who is proceeding *pro se*, commenced this action by a complaint, (Doc. 1), which he then amended. (Doc. 19). The defendants then filed motions to dismiss the amended *pro se* complaint. (Docs. 25 and 27). In response, the plaintiff with leave of court has now filed a second amended complaint. (Doc. 36). Richardson is advised that in the future any amended complaint must be accompanied by a motion seeking leave to amend. However, we will permit the filing of this second amended complaint since Rule 15(a) of the Federal Rules of Civil Procedure, which governs amendment of pleadings strongly favors amendment of pleadings, and provides that such leave to amend should be liberally granted “when justice so requires.” Fed. R. Civ. P. 15(a)(2).

Accordingly, IT IS ORDERED as follows:

1. The plaintiff's proposed second amended complaint, (Doc. 36), will be lodged by the clerk as the second amended complaint in this matter.

2. We believe that this development has substantive significance for the parties with respect to the pending motion to dismiss the amended complaint filed by the defendants since, as a matter of law, an amended complaint takes the place of any prior complaint, effectively invalidating the prior complaint. Crysen/Montenay Energy Co. v. Shell Oil Co. (In re Crysen/Montenay Energy Co.), 226 F.3d 160, 162 (2d Cir. 2000) ("[A]n amended pleading ordinarily supersedes the original and renders it of no legal effect"); see 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 1476 (2d ed. 1990) ("A pleading that has been amended ... supersedes the pleading it modifies.... Once an amended pleading is interposed, the original pleading no longer performs any function in the case...."). Therefore, since the amended complaint is now a legal nullity the defendants' motions to dismiss the amended complaint, (Docs. 25 and 27), are DISMISSED as moot.

3. However, this leave to file a second amended complaint is granted without prejudice to the assertion of any defenses or dispositive motions that the defendants may believe are appropriate with respect to the second amended complaint.

SO ORDERED, this 20th day of May 2022.

/s/ Martin C. Carlson

Martin C. Carlson

United States Magistrate Judge